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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/702,141 | 11/05/2003 | Eric J. Streciwilk | 380-146 | 7815 |
| 1009 | 7590 | 06/01/2007 | | |
| KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507 | | | EXAMINER PHAM, MINH CHAU THI | |
| | | | ART UNIT 1724 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/702,141

Applicant(s)

STRECIWILK, ERIC J.

Examiner

Minh-Chau T. Pham

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1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scalfani et al (6,146,434), in view of either Best et al (7,188,388 B2) or Boles et al (6,598,263 B2).

Scalfani et al disclose a vacuum cleaner (10) comprising a housing (32), a nozzle inlet (12), a suction generator (34) carried on the housing, a dirt cup (50) carried on the housing, and a dirt cup having a dirt collection chamber with an inlet (80) and an outlet (82), and a filter element (104) held in the filter chamber (col. 2, lines 51-63). Claims 1-4 and 11-13 differ from the disclosure of Scalfani et al in that the filter housing and filter chamber mating with the open end of the dirt cup. Best et al disclose a filter chamber (90) with a filter (88) inside mating with the open end of the dirt cup (48) (see Figs. 3 & 4, col. 4, line 56 through col. 5, line 19). Boles et al disclose a filter chamber (137) with filter elements (151, 162 in Fig. 6) mating with the open end of the dirt cup (131) (see Figs. 5 & 6). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a filter housing and filter chamber mating with the open end of the dirt cup as taught by either Best et al or Boles et al in the vacuum cleaner Scalfani et al since it is well known in the art that the mating configuration of the filter chamber and filter housing would provide tight fitting to insure no leakage or air bypassing around the rim and to increase maximum filtration efficiency.

Claims 5-10 call for the filter support having a concavity. It is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. Eskimo Pie Corp v. Levous et al 3 USPQ 23.

Claims 14-16 call for the filter element being frustoconical. Best et al disclose the filter element being cylindrical. Boles et al disclose the filter elements being planar (151) or cylindrical (162). It is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. Eskimo Pie Corp v. Levous et al 3 USPQ 23.

Response to Arguments

Applicant's arguments filed on March 14, 2007 have been fully considered but they are not persuasive.

Applicant argues that none of the cited secondary reference Baldinger et al is not qualified as prior art applied against the instant claims. The Examiner now drops the Baldinger et al reference, and newly introduces Best et al (prior art with earlier date May 5, 2000) and Boles et al (prior art with earlier date May 9, 2001) as secondary references in combination with the primary reference Scalfani et al under the 103(a) rejection to show: Scalfani et al disclose a vacuum cleaner (10) comprising a housing (32), a nozzle inlet (12), a suction generator (34) carried on the housing, a dirt cup (50) carried on the housing, and a dirt cup having a dirt collection chamber with an inlet (80) and an outlet (82), and a filter element (104) held in the filter chamber (col. 2, lines 51-63), as claimed. Claims 1-4 and 11-13 differ from the disclosure of Scalfani et al in that the filter housing and filter chamber mating with the open end of the dirt cup. The

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Examiner drops the Baldinger et al as the secondary reference and newly introduces Best et al (prior art with earlier date May 5, 2000) and Boles et al (prior art with earlier date May 9, 2001) as secondary references to show: Best et al disclose a filter chamber (90) with a filter (88) inside mating with the open end of the dirt cup (48) (see Figs. 3 & 4, col. 4, line 56 through col. 5, line 19). Boles et al disclose a filter chamber (137) with filter elements (151, 162 in Fig. 6) mating with the open end of the dirt cup (131) (see Figs. 5 & 6). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a filter housing and filter chamber mating with the open end of the dirt cup as taught by either Best et al or Boles et al in the vacuum cleaner Scalfani et al since it is well known in the art that the mating configuration of the filter chamber and filter housing would provide tight fitting to insure no leakage or air bypassing around the rim and to increase maximum filtration efficiency.

Claims 5-10 call for the filter support having a concavity. Both Best et al and Boles et al show the filter support being cylindrical. It is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. Eskimo Pie Corp v. Levous et al 3 USPQ 23.

Claims 14-16 call for the filter element being frustoconical. Best et al disclose the filter element being cylindrical. Boles et al disclose the filter elements being planar (151) or cylindrical (162). It is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. Eskimo Pie Corp v. Levous et al 3 USPQ 23.

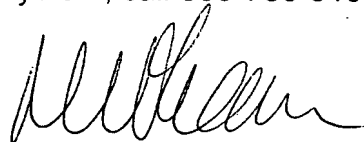
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Applicant's arguments with respect to claims 1-16 have been thoroughly considered but are moot in view of the new ground(s) of rejection, as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Minh-Chau Pham
Patent Examiner
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May 29, 2007